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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,322	12/13/2001	Shankara B. Reddy	0391999529-0	6103
23409	7590	12/16/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			NASSER, ROBERT L	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/683,322	Applicant(s) REDDY ET AL.	
	Examiner Robert L. Nasser	Art Unit 3736	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 0204.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The examiner regrets that upon further review, the following new grounds of rejection is deemed pertinent to the claims. Applicant is invited to phone the examiner to discuss the rejection.

Claims 6-10 are objected to because of the following informalities: These claims depend on claim 5, which has been canceled. The examiner will treat these claims as depending on claim 1. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-17, 23, and 25-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Selker et al 6067466. Selker teaches a method of determining the risk of acute cardiac syndromes by combining an indicator (conditional probability) from a plurality of diagnostic tests, including ekg, biochemical marker ck, patient history, echocardiography (column 8, line 20), MRI (column 8, line 37), and calculating a probability (risk) that an acute cardiac event is occurring from the combined indicators.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3, 4, 18-22,<sup>24</sup> 37, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Groth et al 5,690,103 and Lachejewski 6142078. Selker does not use a fuzzy logic system to calculate the results. However, in column 7, lines 51-62, it states that other calculation methods can be used. Groth et al teaches calculating a similar indicator to that of Selker, where a fuzzy logic system is used to perform the calculations. Hence, it would have been obvious to modify Selker to use such a fuzzy logic system, as it is merely the substitution of one known calculation method for another. In addition, Lachejewski teaches in column 9, lines 4-47, a fuzzy logic system including fuzzifying, inferencing, and defuzzifying. It further teaches that mandami inference includes membership functions and is a known fuzzy logic technique. Hence, it would have been obvious to modify the above combination to use a mandami inference system as it is merely the substitution of one known logic system for another. With respect to claims 40 and 41, Selker determines the present risk of the syndrome. However, Groth similar system that determines a future risk. Hence, it would have been obvious to modify the system to also determine a future risk, to provide a better diagnosis for a physician.

Claims 9, 10, 15, 16, 29, 30, 35, and 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker et al in view of Campbell et al 6059724. Selker does not teach an imaging device as one of the diagnostic tests, but it teaches that other types of diagnostic tests may be used. Campbell however teaches in column 14, lines 41-55, that imaging data may be used in combination with the data measured by Selker to assist in assessing medical conditions. Therefore, it would have been obvious to

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modify the above combination to use an imaging device, to provide improved data as to the patient's condition. The exact type of imaging device would have been obvious to one skilled in the art, given that applicant has not stated that the selection of a specific imaging device solves a given problem or is for a particular purpose.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selker in view of Groth et al 5,690,103. Selker determines the present risk of the syndrome. However, Groth similar system that determines a future risk. Hence, it would have been obvious to modify the system to also determine a future risk, to provide a better diagnosis for a physician.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bayer et al 6532381 shows a similar risk assessing system to applicant's.

Applicant's arguments filed 9/10/204 have been fully considered but they are not persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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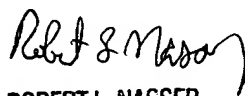
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser  
Primary Examiner  
Art Unit 3736

  
ROBERT L. NASSER  
PRIMARY EXAMINER

RLN  
December 13, 2004